



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Micciche et al.
Serial No: 10/043,872
For: WIPE FOR REMOVING STAINS FROM FABRICS AND CARPETS
Filed: January 10, 2002
Examiner: Lorna M. Douyon
Art Unit: 1751
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Attorney Docket No.: 0001916USU

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Commissioner for Patents
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the Final Office Action mailed on November 29, 2005, in the above-identified application, Applicants respectfully file herewith a Notice of Appeal and request review of the present application prior to filing an Appeal Brief.

Related Appeals

There are no related appeals.

Status of Claims

Claims 1 through 19 and 23 through 43 are pending in the present application. Claims 1 and 32 are independent claims.

Claims 1 through 14, 17 through 19, 23 through 41 and 43 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over WO 00/30956 (hereinafter " '956 application").

Claims 1 through 19, 23, 30 through 32, and 41 through 43 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,712,240 to Tyerech et al. (Tyerech).

Claims 24 through 29 and 33 through 40 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over Tyerech in further view of the '956 application.

Claims 15, 16 and 42 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over the '956 application in further view of Tyerech.

Clear Errors for Review

The Final Office Action (Action) maintains that the '956 application teaches fluorinated materials like fluoropolymers as one of the treatment chemicals for the wipes and even though the '956 application does not teach a soil resist use of the composition, the two different intended uses are not distinguishable in terms of the composition.

Claim 1 recites a cleaning wipe having a composition and requires, inter alia, at least one soil resist selected from the group consisting of fluoroaliphatic oligomer or polymer, fluorinated acrylate copolymer, anionic fluorosurfactant, and any combinations thereof. The soil resist is present in an amount about 0.01 wt.% to about 4 wt.% of the total weight of the composition. The cleaning composition is adjusted to a pH about 7.5

to about 10.5, and the wipe has a loading level ratio about 1:1 to about 10:1 based on a total weight of the cleaning composition to a total weight of the wipe. The wipe is for cleaning carpet and fabric.

Claim 32 recites a carpet and fabric cleaning wipe having a cleaning composition comprising, inter alia, about 0.01 wt.% to about 4 wt.% soil resist selected from the group consisting of fluoroaliphatic oligomer or polymer, fluorinated acrylate copolymer, anionic fluorosurfactant, and any combinations thereof. The carpet and fabric cleaning wipe has a loading level ratio about 1:1 to about 10:1, based on a total weight of the cleaning composition to a total weight of said carpet and fabric cleaning wipe.

Applicants respectfully maintain that the '956 application does not disclose or suggest any wipe with a composition having a soil resist, as required by claims 1 and 32. The fluorinated materials in the '956 application are employed to treat the substrate to adapt the separation force between wipes (page 12, line 27), and not as a soil resist in a carpet and fabric cleaning wipe. The '956 application is silent as to the use of a soil resist and fails to even contemplate the problem of resoiling on a carpet or fabric.

Applicants respectfully submit that the Action mischaracterizes the disclosure relied upon in the '956 application. The '956 application describes the use of silicone materials as suitable means of adapting the separation force between wipes (page 12, line 27 through page 13, line 3) and provides, with respect to a specific silicone blend, use of said blend on the substrate with coating application levels of at least 0.25 g, and preferably 0.5 to 8.0 grams silicone per square meter of surface area (page 13, lines 3-5). The '956 application further describes other suitable treatment materials, which include fluorinated materials such as fluoropolymers (PTFE given as sole example), among a laundry list of other materials. No further description or specificity on the use of specific types of fluoropolymers in any amounts is provided, let alone use as a soil resist.

Applicants assert that the disclosure of the use of a precise blend of silicones in an amount based on the surface area of a substrate, as suitable means of adapting the

separation force between wipes falls far short of rendering the claimed invention obvious.

Additionally, Applicants respectfully disagree with the Action's assertion that it would have been obvious to one skilled in the art at the time of the invention was made to reasonably expect the compositions of WO '956 to have a pH within those recited considering the similarities of ingredients used in the composition and the utility in wiping surfaces in the home and industry. The pH of the claimed composition is not arbitrary, as noted in the present specification at page 16, lines 1-5, which provides that controlling and maintaining the pH of the composition in the wipe contributes to the exceptional stability and microbial growth prevention of the present invention.

Therefore, because of the deficiencies noted in the disclosure of the '956 application, the Action has not met its burden in establishing a *prima facie* case of obviousness.

Applicants further submit that the '956 application fails to disclose or suggest the claimed invention recited in dependent method claims 33 through 38 and 40.

Claim 33 requires placing the wipe in a container; dispensing the composition into the container; and sealing the container. Claim 36 requires dispensing the composition into a container; placing the wipe into the container; and sealing the container. Nowhere in the '956 application are such methods disclosed or suggested. To the contrary, the '956 application discloses applying the composition to the wipes prior to putting the wipes in the container (page 17, line 21 through page 18, line 19).

Claim 34, 37 and 40 each require that the sealed container is inverted. Nowhere in the '956 application is the step of inverting a sealed container remotely disclosed or suggested.

The Action contends that it would have been obvious to one of ordinary skill in the art at the time of the invention to have loaded a cloth or non-woven cloth with the

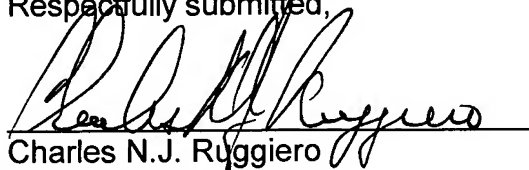
aqueous composition in its optimum proportion because Tyerech teaches that a carpet can be treated with their composition by adding the composition to a cloth and rubbing the carpet.

By its own admission, the Action notes that Tyerech fails to disclose a wipe impregnated with a cleaning composition. Therefore, absent such disclosure, Tyerech cannot render the presently claimed invention obvious. There are many considerations in determining the loading level to be applied to a wipe, such as, for example, the nature of the composition, the nature of the wipe, use of the wipe, wipe packaging, storage of the wipe, and wipe stability. These parameters are clearly not contemplated by Tyerech. Therefore, it is clear that one skilled in the art would not have a reasonable expectation of success in simply combining the composition of Tyerech in a cloth, based on the lack of disclosure in Tyerech of a wipe impregnated with a cleaning composition, as recited in the claimed invention.

In view of the above, Applicants respectfully submit that the Final Rejection is clearly erroneous and, as such, the present application is in condition for allowance. Accordingly, Applicants respectfully request reconsideration and withdrawal of all claim rejections and passage of the application to issuance. Such action is solicited. If for any reason the Examiner feels that consultation with Applicants' attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the number below.

February 27, 2006

Respectfully submitted,



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